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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Kenneth Austin	)	Confirmation No.: 2378
Serial No.: 09/744,055	)	Group Art Unit: 2616
Filed: March 30, 2001	)	Attny Docket No.: Roy-011
For: Identification of Video Storage Media	)	Examiner: Huy T. Nguyen

RESPONSE TO REQUIREMENT FOR RESTRICTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is responsive to the Office Action dated May 6, 2005. In that Office Action, the Examiner required restriction among Group I (claims 1-11 and 13-16), Group II (claims 17-20), Group III (claims 21-22), Group IV (claims 24-27) and Group V (claim 28) under 35 U.S.C. 121 and 372.

Applicant provisionally elects Group II (claims 17-20) for prosecution but respectfully traverses the Restriction Requirement and requests reconsideration. Applicant further reserves the right to file one or more divisional and/or continuation applications concerning the subject matter of the non-elected embodiments if the Restriction Requirement is not withdrawn.

This Restriction Requirement should be reconsidered and withdrawn because it is not in compliance with M.P.E.P Section 1850, Part II (DETERMINATION OF "UNITY OF INVENTION").

> Although lack of unity of invention should certainly be raised in clear cases, it should neither be raised nor maintained on the basis of a narrow, literal or academic approach. There should be a broad, practical consideration of the degree of interdependence of the alternatives presented, in relation to the state of the art as revealed by the international search or, in accordance with PCT Article 33(6), by any additional document considered to be relevant. If the common matter of the independent claims is well known and the remaining subject matter of each claim differs from that of the others without there being any unifying novel inventive concept common to all, then clearly there is lack of unity of invention. If, on the other hand, there is a single general inventive concept that appears novel and involves an inventive step, then there is unity of invention and an objection of lack of unity does not arise. For determining the action to be taken by the examiner between these two extremes, rigid rules cannot be given and each case should be considered on its merits, the benefit of any doubt being given to the applicant.

The inventions of Groups I and II are so linked as to form a single general inventive concept under PCT Rule 13.1. All of the claims of Groups I and II (claims 1-11 and 13-16 as well as claims 17-20) share the common inventive concept of obtaining data from a media device and analyzing the data/using the data to make a determination.

Accordingly, the restriction requirement, at least with regard to Groups I and II, is unnecessary, since those claims do relate to a single inventive concept, and a single search will suffice to determine the novelty and non-obviousness of the claimed subject matter. Since, according to the MPEP, each case should be considered on its merits, the benefit of any doubt being given to the Applicant, it is respectfully submitted that at least the claims of Groups I and II should be examined together.

Applicant thus respectfully requests that the Restriction Requirement among Groups I -V be reconsidered and withdrawn and that at least the embodiments in Groups I–II be examined together.

Since Applicant has provisionally elected an invention with traverse and has fully and completely responded to the foregoing Office Action in accordance with the rules, the present application is now in condition for an early action at least on the merits of the elected Group II (claims 17-20), and respectfully with regard to Groups I and II.

Respectfully submitted,

November 4, 2005

By: 
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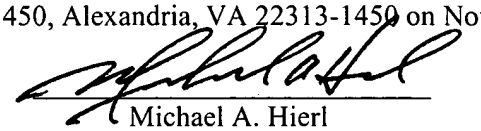
CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 4, 2005.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